

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, MAY 10, 2017 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chairman Jim Spanos, OJ Robinson - Selectmen's Representative, John Hettinger, Paula Strickon, Ron Beard (alternate & Fire Chief),

Members Excused: Norman Belanger (alternate), Callum Grant (alternate), Vice-Chairman R. Patrick Romprey,

Members Absent: None

Staff Present: Planning and Zoning Administrator Carole Bont, and Wendy Tanner (recorder)

Staff Excused: Town Manager and Town Planner Alfred "Butch" Burbank

Guests:

- **Michael Conklin Esq.** – Conklin & Reynolds, PA, 264 Main Street, Lincoln, NH 03251
- **Scott McIntyre** – Assistant Property Manager at the Lodge at Lincoln Station, 36 Lodge Road, Lincoln, NH 03251
- **Paul J. Beaudin II** – resident and property owner of 2 Louis Lane, Lincoln, NH 03251 (Map 117, Lot 069), PO Box 872, Lincoln, NH 03251-0872.
- **Walter Reed** – President of the Homeowners Association at the Lodge at Lincoln Station and resident of 36 Lodge Road #C306.
- **Paul Rogers** – resident and property owner of 9 Riverside Terrace, 2E, Lincoln, NH 03251

I. CALL TO ORDER by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

Chairman Spanos called the meeting to order at 6:00 pm.

Callum Grant and Norman Belanger and Pat Romprey were excused.

Ron Beard was seated.

II. CONSIDERATION of meeting minutes from:

- April 26, 2017

Motion approve the minutes of April 26, 2017 as amended.

Motion: OJ Robinson **Second:** John Hettinger **All in favor:** 3-0

Paula Strickon abstained from the vote.

III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates):

IV. NEW BUSINESS:

- A. Scott McIntyre, Assistant Property Manager for Lodge At Lincoln Station Resort – Conceptual – Lodge At Lincoln Station Resort Hotel/Condominiums (Map 121, Lot 117 36 Lodge Road) Wants to convert three separate locker storage rooms on three different floors into hotel rooms without kitchenettes. Does he need Site Plan Review?**

Presentation:

Walter Reed, President of the Homeowners Association for the Lodge at Lincoln Station (“HOA”), said that the HOA was “asking to do some unfinished Satter business”. Satter Companies of New England [James Kennedy, Rick Barber, Fred Mock] (“Satter”), was the original developer of a number of developments in Lincoln, including Forest Ridge and the Lodge at Lincoln Station (“The Lodge”). “There is no new construction going on here.”

According to Reed, Satter “started these rooms, but it is in the back half of the building where he went bankrupt before he could finish them”. Reed said that the members of the HOA have had the project of turning the three (3) storage rooms into hotel rooms on their “radar for a long time.” Reed said the plan was that if the HOA ever had enough money the HOA planned to eventually convert the storage areas into “some sort of a hotel room so that the owners, if they have more people than they could sleep, would have someplace to put people.”

Reed said the HOA did “some excavation to these rooms and found that they are already connected to the septic system.” At Bont’s suggestion Reed asked Public Works Director Nate Hadaway to look at the hookups for the rooms. Reed said “It was determined that they [the rooms] were storage rooms with no current water or sewer hookups.” Fire Chief Beard also looked at the rooms and confirmed the rooms were designed and set up for storage. Reed asked the Planning Board how the Board would like the HOA to proceed and what the HOA needed to do to convert the storage rooms to hotel rooms. Reed said he would like to do it right, whatever was required.

Questions by the Planning Board:

- **Are Hotel Units Allowed in the Condominium Declarations?**

Chair Spanos asked if the Condominium Declarations for the Lodge At Lincoln Station Condominiums (“The Lodge”) allowed for adding these motel units. Reed said yes.

- **Were the Storage Rooms Hotel or Condo Rooms On Original Plans?**

Chair Spanos asked if the proposed three (3) hotel rooms were on the original plans for The Lodge. Reed said that the subject rooms were on the Floor Plans as “storage units”. Chair Spanos asked Reed to confirm that the subject rooms were not on the original plans as either condominium units or hotel units. Reed said that was correct but the groundwork for the plumbing was done. If and when they converted the storage areas into hotel rooms, members of the HOA were hoping to move the plumbing over into the corner of the rooms to take up less room.

- **Will the Rooms Be Sold As Separate Units?**

Attorney Conklin said that the proposed hotel units will not be sold as separate units. Reed said the proposed hotel units could not be sold because they are considered “common area”.

- **Are There Pre-Existing Water & Sewer Hookups?**

Hettinger asked if there was fresh running hot and cold water to these rooms. Reed said yes. Hettinger asked if there were pipes in the rooms now. Reed said that there are pipes in the ceiling. Reed said that these proposed hotel units are “not set up as hotel rooms but the water and everything is there”. Chair Spanos asked if the HOA would tap into the existing lines. Reed said that they are already tapped into the existing water line and they would be tapping into the

sewer line. Hettinger asked if the water was also there or would it have to be piped in. McIntyre said that the rooms are heated and there was a drain that was already there. The water lines are literally within a foot of the doorway to the rooms.

- **What Form of Ownership Will the Proposed Hotel Units Have?**

Chair Spanos asked if the hotel units would only be for the use of the condominium unit owners.

Reed said that the hotel rooms would be rented to the public as well through the HOA desk. Reed said that the HOA is not trying to hide the fact that the rooms are hotel rooms. If the HOA can get some income for the owners of the condominiums to help defray all of their HOA costs, including plowing and other expenses all the better.

- **Is There Adequate Space For Parking?**

Strickon asked if there was sufficient parking. Reed said that there was adequate parking.

Bont said that addressing the issue of whether or not there is adequate parking is part of the Site Plan Review process. Bont said that the HOA wants to know if they need to come to the Planning Board for Site Plan Review approval to convert the storage rooms into hotel units. Reed was at the meeting for a “Conceptual” to find out from the Planning Board what direction he needs to go in and what sort of application or issues he needs to address for the Planning Board – whether there is adequate parking is one of those issues.

- **What Was the Original Purpose of and Form of Ownership for the Storage Rooms?**

Hettinger asked if these three (3) rooms were originally designed in the plan as hotel rooms that were never finished off. Reed said that Satter Companies of New England, Inc., laid the groundwork for converting the storage rooms into hotel rooms, but in the end the Satter Companies went bankrupt before Satter could ever do anything. Reed said the HOA put ski lockers into these three (3) rooms because the members of the HOA did not want people walking through the building with ski boots and skis. Eventually, the ski lockers were moved to the basement which left one (1) room on each of three (3) floors empty.

Chair Spanos said it has already been established that these rooms are shown on the plans as storage areas and are not hotel units.

Attorney Conklin said that he had not looked at the recorded floor plans but thought the three (3) rooms were shown as “common area”. These three (3) rooms would remain “common area” after the rooms were converted into hotel units, but with construction they would become “improved” common areas.

What Does the Applicant Need?

Chair Spanos said that since the HOA is proposing to expand the use the HOA should come in for Site Plan Review approval from the Planning Board. Chair Spanos offered that since no changes to the outside of the buildings were being proposed, the HOA could request waivers for many items on the Site Plan Review Application Checklist. However, Chair Spanos added that there is no guarantee how the Planning Board members would respond to each request for a waiver.

- **Number of Parking Spaces Indicated on Plan**

Bont said that when the HOA submits their Site Plan, the Site Plan should indicate a count of the number of existing parking spaces and show where they will put the additional required parking spaces. Attorney Conklin asked what parking had to do with Site Plan Review for converting existing storage space into hotel units. Chair Spanos said that parking is part of the Site Plan Review process. For example, if the Town received complaints that there was no parking or inadequate parking at the Lodge or that the Fire Department or the Ambulance have issues with accessing people in need, the Planning Board would take a look at those issues. There are specific requirements for the number of parking spaces in the Land Use Plan Ordinance.

Reed said that the Lodge at Lincoln Station “has more parking than anyone in town”. Chair Spanos said that Reed will not have any problem addressing the issue of parking, that being the case. Bont said that the Town will still need a count as part of the application. Chair Spanos said that The Lodge HOA would have to show how many parking spaces they had and how many parking spaces they need.

- **Possible Waivers – Survey of Site**

Attorney Conklin reviewed the requirements for Site Plan Review, and questioned if a survey and building plans would be required. Bont said that waivers could be applied for some of the required items on the checklist because no outside changes are being done other than more parking spaces. Bont thought that The Lodge HOA may already have a Site Plan with the number of parking spaces that are currently there. Attorney Conklin said he thought that the original approved Site Plan would show the parking spaces.

Bont said that the buildings of The Lodge at Lincoln Station predated zoning so the Town does not have any Site Plans for those buildings or the parking.

Attorney Conklin said that the one thing the HOA could provide is the recorded Site Plan and floor plans for the buildings. Bont asked if the parking would be on the recorded Site Plan. Attorney Conklin said that the Site Plan has to show the entire parcel. He was not sure if all the parking spaces had been laid out or not on the recorded Site Plan.

Bont said the assessment cards indicated that the building was built in 1986. 1986 was the year that the Master Plan was adopted and the year the zoning ordinance (Land Use Plan Ordinance) was adopted. Site Plan Review Regulations were adopted in 1988. These buildings and the recorded Site Plan and Floor Plans would have predated zoning and the Site Plan Review Regulations. In 1986 the Town would not have asked the developers of The Lodge at Lincoln Station for a Site Plan.

Robinson asked if there was a recorded Site Plan. Attorney Conklin said that there is the recorded condominium Site Plan and floor plans for all the floors. Attorney Conklin said that “The Lodge was built in wings”. Reed said that The Lodge was built in stages. In 1986 another floor was added on top of Building A and Building B which was called for in the original plans.

- **Who Were the Parties Involved in the Development of “The Lodge”?**

Bont said that when she looked through the 1985 and 1986 Planning Board minutes she had difficulty determining where the proposed projects were located because she did not see any references to map and lot numbers. Bont said she did not see the names of the corporate developers in those minutes that she recognized. There was rarely a mention of the developer’s

name if the project developer was an “LLC”. She did not see the familiar names like “Satter”, or “Rick Barber” or “Richard Testa”. There were no corporate names that she recognized either like “Satter Companies of New England” or a subsequent name “The Phoenix”. Attorney Conklin said he did not think that “The Lodge at Lincoln Station” went by another name. Bont said she would look at the minutes again.

Attorney Conklin said that he would try to take a look at his files as well.

- **Water and Sewer Tap Fees and Bedroom Impact Fees**

Reed said that in addition to adding three (3) hotel rooms, two (2) full bathrooms would be removed from the common areas. For some unknown reason two (2) bathrooms were built in the basement.

Chair Spanos said that the Planning Board does not administer Water and Sewer tap fees or Bedroom Impact Fees. The Town Manager and Board of Selectmen issue these.

- **How To Apply For Waivers**

Attorney Conklin asked how the HOA should apply for waivers. Chair Spanos said that the Application For Waivers was part of the Site Plan Application. Bont said that there are three (3) parts to the Site Plan Review application.

1. **Application for Site Plan Review.** The application is like a cover sheet with contact information and an agreement.
2. **Site Plan Review Checklist.** On the checklist there is a list of what needs to be provided. Next to each item on the checklist are three (3) columns.
 - a. “Provided”
 - b. “Not Applicable”
 - c. “Waiver Requested”
3. **Application for Waiver of Subdivision/SPR Regulations Form.** The waiver request is a form on which to ask for a waiver from a specific requirement on the checklist and then list the reason why the requirement should be waived.

Attorney Conklin said he could provide the Planning Board with:

1. Recorded Site Plan;
2. Recorded floor plans that shows the three (3) proposed hotel spaces as empty space;
3. Site Plan that details the existing and proposed parking (if necessary) adequately;
4. Some other drawn plan that shows the layout of the three (3) motel units on each floor to be approved.

- **Show Number of Parking Spaces**

Bont said that on the Site Plan showing the number of parking spaces, could the plan show where the HOA will put the three (3) extra parking spaces. Robinson said unless the HOA already has more than it needs.

Bont said that the Lincoln Land Use Plan Ordinance (LUPO) requires two (2) parking spaces per condominium unit. However, “The Lodge” condominium units predate the adoption of the

zoning ordinance (LUPO). When the project was completed there was only one (1) parking space per condominium unit so “The Lodge” will need to show only one (1) parking space per pre-existing unit on the Site Plan. So if The Lodge has exactly one (1) parking space per condominium unit then The Lodge would only need an additional three (3) parking spaces – one (1) parking space for each hotel unit. “The Lodge” might already have three (3) extra parking spaces.

Attorney Conklin said that maybe the HOA does have enough parking spaces for the proposed three (3) hotel units, just barely. There are one hundred fifty-nine (159) units and there are one hundred sixty-four (164) parking spaces. Attorney Conklin said, “Even when [The Lodge] is busy the parking lot is never full.” Reed said that they rope off some parking spaces in winter and do not plow the spaces. Except for the 4th of July holiday he has never seen a good amount of cars there.

- **Credit for Removal of Water & Sewer Fixtures**

Scott McIntyre asked if The Lodge would get credit if they removed two (2) full bathrooms out of the basement. Chair Spanos said that he would need to work something out with the Town administration. There is also a bedroom tax that is called a “Bedroom Impact Fee”. Any adjustments would have to be worked out with the administration too.

Bont said that in the past the Town has given credit for the removal of fixtures that incur Water and Sewer tap fees. McIntyre asked if the credit “is one for one”. Bont said yes. Robinson said that the credit would be apply if what was being removed and what was being added was identical. For example, if the UOA gets rid of a half bath (toilet & sink) and then puts in a full bath (toilet, sink & tub), the UOA has to pay for the extra tub. McIntyre said, “These are full bathrooms that we are taking out.” Bont said that there is one category that is a full bathroom which is three (3) pieces. If you are getting rid of a two (2) piece bathroom and putting in a three (3) piece bathroom, you would only be charged for the one (1) extra piece (i.e., extra tub or shower).

Reed said, “What we will be putting in is comparable to what we would be closing down.” Robinson said that pictures would be best. The administration will compare the photo of what exists to what you have planned and make that determination. Pictures work.

- **Application Fees**

Scott asked when they need to have the \$50 for requesting the form. Bont said that there are fees associated with Site Plan Review. In addition, there are costs associated with mailing Notices to Abutters and publishing a notice in the local newspaper.

- **Recording Fees and Whether Recording the Site Plan Review Approval Plan is Necessary**

Bont said until the time comes when she actually has to record something, she does not collect the recording fee or the charge that goes along with it called LCHIP (Land and Community Heritage Investment Program) fee. Attorney Conklin asked what would be recorded.

Bont said the when the original plans for the condominiums was recorded the Town recorded both a Site Plan and a set of Floor Plans laying out the individual condominium units on each floor. In the Floor Plans recorded the subject areas were treated as “storage rooms”. If approved, those rooms will be characterized as hotel units. Attorney Conklin asked if we were

looking for a Mylar. Bont said she did not know what they were looking for, but that is what the Town usually does.

Chair Spanos said we would need a Mylar. Attorney Conklin asked what the Mylar should show. Bont said that the Mylar would need to show those three hotel units among the many condominium units. Perhaps the three hotel rooms could be shown on one Mylar.

Chair Spanos asked if the HOA could just show the site going from one hundred fifty-nine (159) units to one hundred sixty-two (162) units. Bont said that the recorded Site Plan is not simply changing the number of condo units from one hundred fifty-nine (159) units to one hundred sixty-two (162) because these proposed hotel rooms are not condo units; these are a different type of dwelling unit – these are hotel units.

Robinson questioned the need for a Mylar saying that the Board has approved other projects before without engineered plans or Mylar. Chair Spanos said that we could record the paper, “I guess”. Robinson said that that the Whale’s Tale, the last project done, they had a drawing survey but it was just on paper.

Bont said that the Registry of Deeds is particular about what they will record.

Attorney Conklin said that we are improving existing space, we are not subdividing or adding more space. Bont said that the three (3) rooms will be a different type of commercial space; it has a different characterization. The Town has recorded plans for a number of dwelling units that are condominium units subject to separate laws and subject to the condominium declarations and bylaws. After the HOA adds the three hotel rooms the property will be essentially a mixed use property. Right now the grandfathered approval is for a certain number of condos units with three (3) large areas of storage space. If the Planning Board grants approval, then there will be a property that also includes three (3) hotel units in the former storage areas.

Bont said she will ask another town or get legal advice about how to handle it. Chair Spanos asked if Bont would check with the Grafton County Registry of Deeds to see what they would accept.

Reed said, “Unlike other town houses, this has a rental desk, since day one, in their lobby.”

Robinson did not understand why it would need to be recorded saying that we have not recorded other commercial site plan approvals. Bont said the Town of Lincoln has recorded approved commercial Site Plan Review Plans for other commercial developments.

Robinson said that we have, but the Town does not record every Site Plan Review Approval. Bont said that for example, every year she does not record approved Site Plan Review Plans for updates to Alpine Adventures or Whales Tale. Bont said that those two sites are tourist attractions. Every year when those tourist attractions come for Planning Board Site Plan Review approval to put in a new ride or a climbing pole. The Town does not record the Site Plan Review Plan for those improvements each year. Robinson said, okay.

Chair Spanos said that in his opinion converting the storage areas to hotel units is a relatively minor change. Spanos asked Bont to see if she could find a way to do it “on paper” instead of requiring a Mylar. Bont said that she would research it and check and see what the Town needs to do.

Robinson agreed with Chair Spanos that “this is a minor thing and did not want to make the applicant jump through hoops”. Robinson said he thinks HOA should come before the Planning

Board as part of Site Plan Review, which will trigger the appraisal update, water and sewer tap fees, bedroom impact fees and all that, but he does not think it is necessary to make the HOA to submit and record a Mylar. Bont said to let her find out because she did not know if it was necessary to record the plans or not.

Chair Spanos asked if there were any more questions. There was no reply.

There was a brief discussion about the timing and deadlines for submission and potential meeting dates.

McIntyre was not sure much would be done until the HOA Board of Directors meeting in June.

Reed said he will have to wait until the HOA Board of Directors meeting before he and McIntyre can go any further with the Application for Site Plan Review. The concept that the HOA Board of Directors had was "This is our building and we are just going to change some rooms that are already there." Reed said, "This is getting kind of deep actually. I'll tell you what, I'll do the same thing that you tried to do. I'll do a phone round robin with the Board and see if we can get everything you need in that amount of time. I want to do it right."

Attorney Conklin asked whether his clients could meet the deadline for a June meeting or a July meeting. Bont said that the Planning Board meets twice a month - the second and fourth Wednesday of each month. The public notice needs to be published in the local newspaper and it needs ten (10) day clear notice. The Town of Lincoln publishes its notices in the Littleton Courier – a weekly paper. Reed asked if there was enough time to get that done to meet the June meeting. Bont said for the second June meeting there is time, provided she receives the Application in time. Reed said he would try to meet the deadline for the second meeting in June.

Attorney Conklin, Walter Reed and Scott McIntyre left the meeting.

- V. PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

Letter of Complaint from Paul Beaudin About the Planning Board

Paul Beaudin said that he had a letter of complaint that he wanted to file with the Planning Board. Paul Beaudin gave a letter to the Planning Board. (See Attached.)

Chair Spanos asked if the Planning Board members had read the letter and asked for comments. There were no comments. Chair Spanos told Beaudin that the Planning Board would like to take this under advisement and would get back to him.

Beaudin said that would be fine but he would appreciate a response at some time.

- He said he would prefer a written response.
- He asked when the Planning Board talk about his letter.
- He asked if the Planning Board would talk about his letter in another meeting.
- He said, "I don't understand why you can't talk about it tonight, but I guess I'm just...you want to think about it, is that what you are saying?"

- He said he wants to be there when the Planning Board discusses his letter.
- He wants the Board to at least answer his questions in the minutes.

Chair Spanos said the Planning Board was not prepared to respond to Beaudin's letter as they just received it. Chair Spanos said that the Planning Board did not have the minutes of the meeting to which he referred to in his letter or a copy of the application to look at in order to discuss the complaint. The Planning Board members really did not have anything in front of them to review in order to help them form an opinion.

The Planning Board will let Beaudin know when they are ready to discuss his letter. The Planning Board will post a notice on their agenda about the letter for a Planning Board meeting.

Chair Spanos said the Town Manager/Planner or Bont would "get a hold of" Beaudin to let him know when the Planning Board will address the letter.

VI. ADJOURNMENT

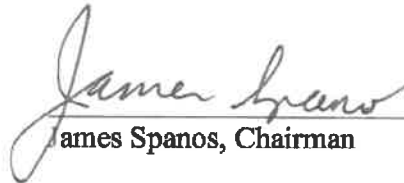
Motion to adjourn at 6:30 pm.

Motion: John Hettinger Second: OJ Robinson All in favor: 5-0

Respectfully submitted,

Wendy Tanner,
Planning and Zoning Recorder

Date Approved:


James Spanos, Chairman

5/10/2017

Town of Lincoln Planning Board
Paul Beaudin II
Letter of Complaint

RECEIVED

MAY 11 '17

Town of Lincoln
New Hampshire

Dear Lincoln Planning Board:

I am submitting this letter of complaint as I do not feel that you as a Board are equitably and fairly enforcing the current Land use Plan Ordinance Regulations. On April 12, 2017 I came in to talk to the Board about a ground Mounted Solar installation. After a very long discussion this installation was determined to be a Structure by the Planning Board and Staff and I was directed to apply for a Variance from the Zoning Board of Adjustment. My complaint is that on 11/9/2016 the Lincoln Planning Board reviewed an application for Alpine Adventures for an expansion of the Aerial Adventure Course. This expansion was to be 56 and 1/2 ft. high which is 21 and 1/2 ft. higher than the maximum allowable structure that is allowed by the current LUPO. Also this structure would have a sign component to it that in no way meets the current regulations pertaining to the installation of a sign. Planning Administrator Carole Bont asked that the Planning Board discuss both of these issues. At the insistence of member Hettinger that "if the Planning Board does not call the climbing structure a sign it will be allright" and the comment from applicant/ Selectman and Planning Board member Robinson that " the Alpine Adventures is treating the sign /climbing structure more like theming" the Lincoln Planning Board let the issues of both the height regulation and the sign regulation pass without recommending that the applicant should apply for any other exceptions due to the structure not meeting the current LUPO regulations. In reviewing the LUPO regulations if an applicant cannot meet the requirements they need to apply for special exceptions or variances to be able to construct a structure that is not in compliance with current regulations. This applicant was not instructed to do so and I would like to know why and for what reasons?



Sincerely: Paul Beaudin II
Lincoln Taxpayer
Cc: FILE

